

## 48A C.J.S. Judges § 57

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

### III. Term and Tenure of Office; Vacancy

#### D. Duration of Term

## § 57. Generally

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Judges](#)  7

#### **The term of the office of a judge is that fixed by law.**

The term of the office of a judge is that fixed by law.<sup>1</sup> A judge cannot, ordinarily, exercise his or her judicial functions beyond such period.<sup>2</sup> Where, however, a judge has duly qualified after due selection, he or she is entitled to exercise the duties of the office during the period or term provided by law until, by one of the methods provided by law, he or she becomes disqualified.<sup>3</sup> Accordingly, once a judge has been duly appointed or elected and has taken the oath of office, he or she remains a qualified judge of that court until suspended, legally disqualified, or such judge voluntarily resigns.<sup>4</sup>

The terms of office of judges, as fixed by the different provisions, may be for life,<sup>5</sup> during pleasure,<sup>6</sup> during good behavior,<sup>7</sup> for a definite period of time,<sup>8</sup> or until the office is declared vacant by a resolution of the legislature.<sup>9</sup> A judge is not bound by the term stated in his or her commission if, in fact, he or she is entitled to a longer term since the law, and not the commission, determines the term of office.<sup>10</sup> A judge's tenure ends upon abolition of the office.<sup>11</sup>

Occasionally, a judge is chosen to preside over a temporary court during the existence of the court.<sup>12</sup> Accordingly, a federal district judge may be mandated to function for less than life tenure during his or her district's transition from territoriality to statehood.<sup>13</sup>

#### ***Reappointment.***

A judge's desire or expectation for reappointment is not a legally protected interest which entitles such judge to a hearing in connection with his or her application for reappointment.<sup>14</sup>

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Footnotes

- 1 U.S.—*Conroy v. Frizzell*, 429 F. Supp. 918 (D.S.D. 1977), *aff'd*, 575 F.2d 175, 25 Fed. R. Serv. 2d 316 (8th Cir. 1978).
- 2 As to exercise of judicial functions beyond term of the office of a judge, see § 164.  
**Constitution in effect at time judge elected controls length of the term**  
La.—*Calogero v. State ex rel. Treen*, 445 So. 2d 736 (La. 1984).
- 3 N.Y.—*La Carrubba v. Klein*, 59 A.D.2d 99, 397 N.Y.S.2d 806 (2d Dep't 1977), *aff'd*, 46 N.Y.2d 1009, 416 N.Y.S.2d 243, 389 N.E.2d 838 (1979).  
  
As to termination of a judge's term of office, see §§ 61 to 66.  
**Legislature has power to prescribe condition**  
Ky.—*Hancock v. Queenan*, 294 S.W.2d 92 (Ky. 1956).
- 4 Tex.—*Medina v. State*, 743 S.W.2d 950 (Tex. App. Fort Worth 1988), petition for discretionary review refused, (Apr. 7, 1988).  
  
As to the voluntary resignation of the office of judge, see § 61.
- 5 U.S.—*Montanez v. U.S.*, 226 F. Supp. 593 (S.D. N.Y. 1964), judgment *aff'd*, 371 F.2d 79 (2d Cir. 1967).
- 6 Alaska—*Delahay v. State*, 476 P.2d 908 (Alaska 1970).
- 7 U.S.—*U.S. v. Isaacs*, 493 F.2d 1124 (7th Cir. 1974) (rejected on other grounds by, *U.S. v. Gimbel*, 830 F.2d 621 (7th Cir. 1987)).  
**Purpose**  
U.S.—*U. S. ex rel. Toth v. Quarles*, 350 U.S. 11, 76 S. Ct. 1, 100 L. Ed. 8 (1955).
- 8 Cal.—*Pollack v. Hamm*, 3 Cal. 3d 264, 90 Cal. Rptr. 181, 475 P.2d 213 (1970).  
**Effect of election of successor**  
Minn.—*State ex rel. Peterson v. Bensen*, 194 Minn. 55, 259 N.W. 389 (1935).  
**Effect of filing nomination papers**  
Ky.—*Cox v. Preston*, 281 Ky. 539, 136 S.W.2d 746 (1940).
- 9 R.I.—*In re Opinion of Judges*, 23 R.I. 635, 51 A. 221 (1902).
- 10 Fla.—*State ex rel. Wynn v. Squarcia*, 66 So. 2d 263 (Fla. 1953).  
  
As to the effect of a commission in the qualification of a judge for office, see § 49.
- 11 Fla.—*Hall v. Strickland*, 170 So. 2d 827 (Fla. 1964).
- 12 Kan.—*Matthews v. Shawnee County Com'rs*, 34 Kan. 606, 9 P. 765 (1886).
- 13 **Constitutionality upheld**

U.S.—*U.S. v. Starling*, 171 F. Supp. 47 (Terr. Alaska 1959).

14

Colo.—*McCamant v. City and County of Denver*, 31 Colo. App. 287, 501 P.2d 142 (App. 1972).

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